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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,599	12/20/2005	Stephan Schachtl	17089/005001	6473
22511	7590	09/25/2006	EXAMINER	
OSHA LIANG L.L.P. 1221 MCKINNEY STREET SUITE 2800 HOUSTON, TX 77010			LEYKIN, RITA	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/561,599

Applicant(s)

SCHACHTL ET AL.

Examiner

Rita Leykin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/20/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

1. Claims 6 are objected to because of the following informalities: In line 6 correct word "tzen" to - - then --. Appropriate correction is required.
2. In claim 4, correct misspelled word "oposition" to - - position - -

3. Claim 12 is objected to because of the following informalities: In line 5, correct word "comprisee" to - - comprising - - . Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding claim 1, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kowall et al. US # RE38,400 in view of Assan US # 2005/0242762.

9. With respect to **claims 1 and 2**, Kowall et al. discloses a tailgate on a passenger van type vehicle body that is operated by an electric motor powered actuator with an electronic control circuit utilizing a microprocessor operating under program control to respond to user initiated opening and closing signals to move the tailgate in the selected direction. In the control circuit, feedback information to the microprocessor indicates the tailgate position. The microprocessor is programmed to operate with this information to stop the tailgate at a wide open position, a partially closed position and a fully closed position. Wherein the actuator mechanism 24 which includes a reversible dc motor 28 that operates crank-arm 30 through the gear reduction drive unit 32 is mounted on one of the rear corner pillars 34 of the body.

Kowall et al. do not teach cooperation of a first and second sensor devices to determine angular position of the tailgate. However, Assan teaches such combination. In Assan two sensor units coupled to the control appliance and used to determine the angular position of the wiper blade. Wherein the wiping angle of the wiper blades is divided into areas and the area containing the respective wiper blade being determined along with the angle of the wiper blade inside the respective area. Each motor unit in

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the wiper system 10 comprise a reversible motor and a gear transmission located downstream of the electric motor, see Fig.1.

Fig. 2 shows a schematic diagram of a sensor for determining the angle zone of a wiper blade of a wiper system with an associated table for signal evaluation. The wiping angle is divided into four angle zones. Wherein the absolute sensors 28 and 30 arranged in region of pivot axle of the wiper arm 18 and used to determine within which angle zone the respective wiper arm or the respective wiper blade is located.

The relative sensor 32, 34 are provided to determine the angle within the respective zone. The relative sensors 32, 34 are advantageously designed as incremental sensors, which are arranged on the driven shaft of the motor or on the input shaft of the gear transmission. The signals of the respective sensor units are input signals to controller 26, see [0036] – [0039].

Hence, it has been obvious to one of ordinary skills in the art, at the time invention was made to use Assan teaching on positioning two position sensors on the output shaft of the drive unit that can detect absolute value of three mutually adjacent pivot angle ranges of a tailgate of the vehicle between open and closed positions and another second sensor device which has incremental measured value detector for measuring the relative position of the output shaft of the drive unit in relation to start or end of the respective pivot angle range in Kowall et al. teaching on the controlled operation of the tailgate of the vehicle to control operation of the tailgate.

The reason is to control movement of the tailgate to prevent damage to the system if obstacle is occurred.

Allowable Subject Matter

10. Claims 3, 5-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter. The prior art made of record in the attached form PTO-892 considered to be pertinent to the submitted application.

However, none of the prior art teaches or suggests claimed limitations in combination with:

- Arrangement of plurality of gear stages in series and the first sensor device is placed between two gear stages and in that an additional gear

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mechanism is provided and has an output device which executes a rotary movement which can be detected by the first sensor device and is analogous to the output shaft;

- The arrangement of the magnetic field sensors with respect to one another in such a way that when the output shaft of the drive unit or an output device of the additional gear mechanism rotates from the starting position to the end position at least three mutually adjacent angle ranges are produced, wherein for each angle range () magnetic field sensors are produced, wherein for each angle range () magnetic field sensors being associated with the magnetic regions in different manner which is a different characteristic of this angle range.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita Leykin whose telephone number is (571)272-2066. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571)272-2800 ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rita Leykin
Primary Examiner
Art Unit 2837



R.L.